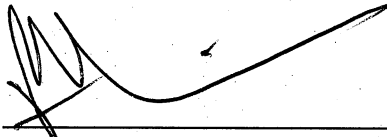


Vermont State Government

Equal Employment Opportunity Plan

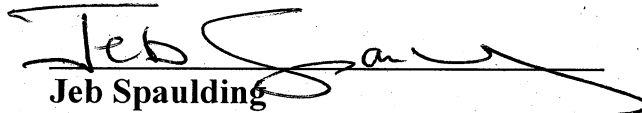
Fiscal Year 2013



Peter Shumlin
Governor

6/6/12

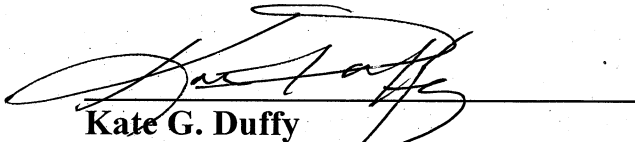
Date



Jeb Spaulding
Secretary of Administration

6/5/12

Date



Kate G. Duffy
Commissioner of Human Resources

6/7/12

Date



Rubin Jennings
Chair, Governor's Workforce Equity
and Diversity Council

6/4/12

Date

STATE GOVERNMENT WORKFORCE MISSION

What is an Equal Employment Opportunity (EEO) plan? Why should Vermont have one? What should result from it?

An EEO plan is a blueprint to help build a strong and diverse workforce by taking advantage of the skills and education of all segments of Vermont's population. This statewide plan is an umbrella document for agencies and departments to use in developing their own EEO plans. It also provides a way to assess the impacts of our human resources practices.

Why have a plan? First, a diverse workforce promotes new ideas and a variety of work and leadership styles. Second, a diverse workforce, reflecting all segments of society, promotes inclusion and support for the work of government. And, whenever the labor market is tight, the state should take the opportunity to reach beyond traditional sources of new employees.

Vermont's population is changing. Over the next century, the state's population can be expected to reflect a broader mix of ethnic, religious, and racial groups. Inclusion of all groups in the state's workforce will improve the workforce and its ability to best serve the entire population.

An EEO plan can help an employer successfully retain a workforce that provides the best service to the people of our state. Having a good plan in place is an important first step toward achieving this goal.

INTRODUCTION

Through a 2002 Executive Order, the Governor assigned the Commissioner of Personnel (now Human Resources) the responsibility of developing, implementing and monitoring a state government equal employment opportunity program. A copy of the Executive Order is attached as Appendix A. The Governor also established the Governor's Workforce Equity and Diversity Council (GWEDC), a successor to the Affirmative Action Council. The GWEDC and the state Equal Employment Opportunity Officer wrote this plan.

Discrimination in employment continues to occur all across the country, particularly against people belonging to historically disadvantaged groups. Minorities, women, people with disabilities, older workers, and other groups may still face unfair barriers to employment opportunities.

By the Governor's order, Vermont is committed to taking positive steps toward ensuring that employment barriers do not exist within state government.

This plan is designed to encourage all state agencies and departments to develop EEO plans to ensure that all eligible applicants or job-holders have equal opportunity in all areas of state employment, including compensation, recruitment, hiring, retention, training, promotion, working conditions, and benefits.

To the extent possible, the state will strive to employ a workforce reflective of Vermont's civilian population. Providing equal employment opportunities throughout state government is a noble goal, and implementing an EEO plan is a means of attaining that goal.

2012 - 2013 EQUAL EMPLOYMENT OPPORTUNITY PLAN

I. The State of Vermont strives to promote equal employment opportunities for everyone. The state explicitly recognizes diversity as a worthy and attainable goal. Nationwide, significant barriers have prevented some groups of citizens from realizing equal employment opportunities. Throughout the country, real progress in eradicating those barriers has been made, but some obstacles to equality and diversity persist.

The State of Vermont Governor's Workforce Equity and Diversity Council (GWEDC) works to promote equality. The following definition of "diversity" guides the Council's work:

Differences among people with respect to personal or cultural background, including, without limitation, race, color, religion, national origin, sex, sexual orientation, gender identity, ancestry, place of birth, age, military status, or physical or mental condition.

The GWEDC's Vision Statement explains its objective:

The State of Vermont fosters an inclusive and welcoming environment, in recognition of the diversity of our community. As an employer of choice, the State of Vermont is committed to developing an environment where every individual may grow personally and professionally, where everyone's contributions are acknowledged, respected, and appreciated, and where we celebrate the differences that make us a strong organization.

By working in concert with the Governor's Workforce Equity and Diversity Council (GWEDC), the Department of Human Resources will identify ways to attract, develop, recognize and retain highly skilled and talented individuals who best represent all dimensions of diversity in all levels of the organization.

Ultimately, diversity benefits us all. The state aspires to employ a workforce that is free of stereotypes and other impediments to equality. When the working population is reflective of the civilian population, traditionally underrepresented groups benefit, the workforce benefits, and society benefits. As an employer, the state benefits by hiring individuals with diverse backgrounds, experiences, and ideas. Similarly, our citizens are best served by well-qualified state employees who are representative of the population, and can draw upon the inherent strengths of diversity when serving their communities.

II. According to the U.S. Census Bureau,¹ Vermont's population was 608,827 in 2000, with a 4.1% minority population. Nearly a decade later, Vermont's total population in 2009 stood at 621,760, with 5.2% identified as minorities.² While the growth in Vermont's total population from 2000 to 2009 was just 2.1%, the minority population increased 29.4%.

In 2000, the State of Vermont's classified workforce was 6,937, and 118--or 1.7%--were identified as minorities.³ By 2010 (Fiscal Year 2011), the classified workforce stood at 7,170— a little over a 3%

¹ U.S. Census Bureau, Population Estimates Program. DP-1 General Demographic Characteristics 2000 and 2009 population estimates.

² Minorities include the following groups: Hispanic or Latino, Black, Asian/Pacific Islander, American Indian/Alaskan Native, Native Hawaiian/Other Pacific Islander, and persons reporting two or more races.

³ Vermont Department of Human Resources, Workforce Report – Fiscal Year 2009.

increase--and the number of classified minority employees was 204, or 2.6%.⁴ The number of minorities in the State of Vermont's workforce increased approximately 50% over the 9 year period, and suggests the state made progress in diversifying its workforce. The state seeks to build on this past success by cultivating a workforce that mirrors the diversity of Vermont's general population (5.2%).

III. The state strives to recruit and retain an excellent, dedicated, and diverse workforce, and hopes to make state employment attractive to all. The state plans to further expand its outreach efforts to recruit qualified applicants from historically disadvantaged and underrepresented populations. The state's objective is to promote equal opportunity and diversity.

Two years ago, a workforce committee (EEOP Committee) was created to consider recruitment efforts and alternatives designed to increase minority interest in state employment. The EEOP Committee's recommendations are accepted and incorporated into the current plan, as outlined below. A current status update follows on pages 6 and 7.

EEOP Committee Recommendations:

The Department of Human Resources (DHR) Recruitment Services will continue to provide centralized support to the state's agencies and departments. Agencies and departments are unique, and should develop their own individualized recruitment strategies and plans for marketing and outreach with assistance from DHR Recruitment Services. Agencies and departments should consider implementing the following recommendations:

- I. Provide top-down direction to implement workforce diversity goals,
 - DHR Recruitment Services is available to provide guidance about available resources to assist with implementation;
- II. Develop relevant outreach materials for use at recruiting events (job fairs, online),
 - Consider the VTrans model used to recruit Engineers, including on-the-job-training and internships;
- III. Market staff availability (direct applicants to DHR Recruitment Services staff, or agency/department staff, if available) to assist potential applicants with the online application,
 - Consider the VTrans model of a paper outline of the online application to encourage applicants to gather information before preparing the online application,
 - Market assistance with online application;
- IV. Engage in active sourcing, trolling, and other recruitment strategies specific to agency/department needs, to mine talent using all available resources (i.e. social networking sites).

In the upcoming year, the state will reassemble the EEOP Committee, to suggest methods to evaluate the avenues selected by DHR Recruitment Services and agencies/departments to increase representation of historically disadvantaged and underrepresented populations in the qualified applicant pool. The state believes that by increasing interest in state employment by individuals from

⁴ Vermont Department of Human Resources Workforce Report – Fiscal Year 2010.

historically disadvantaged and underrepresented populations, it can meet its goal of hiring the best possible employees, while maintaining a strong workforce that enjoys the inherent benefits of diversity.

IV. Achievement of the described objectives will require coordination and cooperation from all segments of state government. Principal responsibilities lie with appointing authorities, the GWEDC, and DHR. The Governor's 2002 Executive Order provides that the Commissioner of Personnel [now Human Resources] will "... develop, implement, and monitor an affirmative action program for the State of Vermont which shall address itself to statewide issues and provide support to each agency/department of state government to ensure the independent development and implementation of agency-specific/department-specific programs tailored to its needs..."

The equal employment opportunity plan builds on specific diversity efforts of the past several years, continuous training by agencies and departments and DHR, educational efforts to eliminate harassment of all types, and equal employment opportunity initiatives already in place in many parts of state government. Pursuant to the Governor's 2002 Executive Order, the Commissioner of Human Resources is also charged with working with agencies and departments in the preparation, monitoring, and enforcement of agency-specific/department-specific EEO plans.

The GWEDC, working with DHR and assisted by state and agency/department EEO officers, will make recommendations regarding:

- Recruitment – examining advertising, job fairs and other approaches to attracting workers, including identification of target markets through many different types of venues.
- Retention/Promotion – practices to encourage retention and promotion of individuals from underutilized groups.
- Training/Education – programs that foster diversity and support equal employment opportunity goals, and that prevent harassment and discrimination.

Using the EEO plan as a foundation, the GWEDC and DHR will seek progress in recruitment, employee promotion, diversity training, and/or other initiatives that improve employees' understanding of equal employment opportunity.

The Commissioner of Human Resources will work with other agency and department heads to ensure that their EEO plans support and complement the state EEO plan.

Current Status Report on EEOP Committee Recommendations

DHR Recruitment Services continues to provide centralized support to the state's agencies and departments. State government is in the process of upgrading the Human Capital Management system (HCM) that also provides the on-line job application. This upgrade will improve user ease with the system and should allow the central recruitment staff to increase its individualized support to agencies.

- DHR staff consult with agency hiring managers to promote skillful recruiting designed to reach a diverse pool of applicants.
- The DHR Recruitment Services, having lost all promotional resources and equipment in the flooding of the Waterbury complex during Tropical Storm Irene, has replaced the most critical materials and has expanded its job fair participation.

- DHR Recruitment Services has also reinvigorated DHR's internship program, promoting opportunities in post-secondary institutions across the state.
- DHR Recruitment Services works with the DHR Information Systems team (HRIS) to support applicants in their use of the on-line application, and works with the Department of Labor in providing support.
- Plans are in process to develop web-based promotion and social networking to broaden the State's recruitment reach.
- DHR is working with agencies and departments that have special recruiting needs and challenges (positions that are difficult to fill or retain) to develop effective approaches.

GWEDC and DHR Accomplishments and Goals for 2012-2013

The GWEDC has worked with DHR in the past year to advance the goals established in the EEO plan. Following is a list of some of the Council's accomplishments this year.

- Limited English Proficiency (LEP) Guidelines: The Council drafted LEP guidelines for DHR in 2011, and researched LEP guidelines in other departments. It recommends that it work with DHR staff to ensure departments are aware of LEP guidelines that apply to state employees.
- The Enabling Executive Order: The Council has developed proposed changes to the Executive Order to reflect the most current equity and diversity references and ensure it is current, and will move this draft forward to the Governor's office this year.
- Statewide Vocational Rehabilitation Survey of State Employees: The Council reviewed this substantial undertaking, and will use it to formulate recommendations for next steps based on the findings.
- EEO Plan: Having made improvements in recruiting practices in the past year, the Council will continue to work with DHR on next steps in outreach, and in awareness-building.
- Digital Literacy: The Council will support DHR activities to identify state employees who need to become digitally literate, and state employees who help the public obtain access to services via the Internet. This work will support: a) readiness among all employees to use the self-service functions in the upgraded HCM system; b) strong retention practices for minority and all employees, and c) the state government's role in nurturing a strong applicant pool within the state.
- Diversity Training: The Council will support DHR's goals to promote cultural competence and diversity awareness by providing input on diversity training resources available in Vermont, and by meeting with Workforce Development staff to discuss resources.

EXECUTIVE BRANCH OF STATE GOVERNMENT

The offices of Governor, Lieutenant Governor, Secretary of State, Treasurer, Auditor of Accounts, and Attorney General constitute the executive branch of state government. The large majority of agencies, departments, boards, councils, and commissions are overseen by the Governor.

Agencies, run by secretaries appointed by the Governor, consist of departments (with commissioner appointments approved by the Governor) that generally are comprised of divisions. Both secretary and commissioner appointments must be confirmed by the state Senate. Half a dozen departments are independent – not part of any agency – most with commissioners who report directly to the Governor. Lines of authority tend to run from the Governor to the agency/department heads to division directors to section chiefs to unit supervisors. A small number of appointed officials do not report directly to the Governor or an agency secretary.

The Governor either appoints or approves appointments to boards, councils, and commissions. Many appointments require Senate confirmation.

The GWEDC, as noted, was created by the Governor's 2002 Executive Order. A roster of current Council members is attached as Appendix B.

The foundation for the Council's work, and the basis for EEO programs across the country, is a series of federal laws and regulations that prohibit discriminatory behavior by employers against members of protected classes. In addition, Vermont laws, policies, and labor contracts with the state employees represented by the Vermont State Employees Association, Inc. (VSEA) or the Vermont Troopers' Association (VTA) reflect the same objectives.

The Secretary of Administration and DHR issue policies and procedures for human resources administration directly relevant to equal employment opportunities which apply to all executive branch employees and job applicants.

The DHR administrator for each agency/department must make these policies available to state employees and job applicants. They also are available at DHR's website: (http://humanresources.vermont.gov/policies/personnel_policy_procedure_manual).

The State/VSEA labor contracts recognize separate Non-Management, Supervisory, and Corrections bargaining units that cover most executive branch employees, and the State/VTA labor contract is specific to the State Police. Not included are contractors, appointed officials exempt from the state's civil service system, managerial, confidential, or temporary employees.

The VSEA/VTA is the exclusive contract negotiator and representative for all bargaining unit employees, regardless of whether they are union members.

FEDERAL EMPLOYMENT LAWS AND REGULATIONS

U.S. Constitution

The Fifth and Fourteenth Amendments to the United States Constitution apply to federal and state governments. The Fifth Amendment precludes the federal government from depriving any person of life, liberty or property without due process of law. It also contains an implicit guarantee that each person receive equal protection under the law. The Fourteenth Amendment prohibits states from violating a person's due process or equal protection rights. In employment, the right of equal protection limits state and federal governments from discriminating against employees, former employees, or job applicants because they belong to a particular group (e.g., based on race or sex).

Civil Rights Act of 1964 – Title VII (42 U.S.C. §§ 2000e-- 2000e-17)

This section, as amended in 1991, prohibits discrimination on the basis of race, color, religion, sex (including pregnancy, childbirth or related medical conditions) or national origin. The act makes it illegal for an employer to discriminate in hiring, discharging, compensating, or in the terms and conditions of employment; and for labor organizations to base membership or union classifications on race, color, religion, sex, or national origin, or to participate in an employer's discrimination.

Executive Order 11246 – President Johnson, 1965

Signed by President Johnson in 1965, the Order prohibits discrimination against workers on the basis of race, color, religion, sex, or national origin by government contractors receiving \$10,000 or more in federal funds. Employers with 50 or more employees and federal contracts of \$50,000 or more must have affirmative action plans, which are monitored by the Department of Labor's Office of Federal Contract Compliance Programs (OFCCP). Regulations implementing the order are at 41 C.F.R. Chapter 60.

Age Discrimination in Employment Act (29 U.S.C. §§ 621-- 633a)

The act applies to employees who are at least 40 years old, and prohibits employers from discriminating against those workers because of their age.

Rehabilitation Act of 1973 (29 U.S.C. §§ 706, 791--795r)

The act, as amended, prohibits employment discrimination on the basis of a disability in any program or activity receiving federal financial assistance.

Americans with Disabilities Act of 1990 (42 U.S.C. §§12101--12213)

The ADA prohibits discrimination against a qualified individual with a disability in employment, public services and public accommodations. The ADA requires that an individual with a physical or mental impairment who is otherwise qualified to perform the essential functions of a job, with or without reasonable accommodation, be afforded equal opportunity in all aspects of employment.

Equal Pay Act (29 U.S.C. § 206d)

The act bars employers and unions from paying wages based on sex, and requires equal pay to employees for equal work, provided the jobs require equal skill, effort, and responsibility, and are performed under similar working conditions.

Family and Medical Leave Act (29 U.S.C. §2601 *et seq.*)

The act allows eligible employees up to 12 weeks of leave in a 12-month period for statutorily defined events, including serious illness, pregnancy and birth, or adoption of a child. The law allows intermittent leave in some circumstances.

Vietnam Era Veterans' Readjustment Act (38 U.S.C. §4212)

The law, as amended, covers special disabled veterans, veterans of the Vietnam era, recently separated veterans, and any other veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized.

STATE OF VERMONT LAW**Fair Employment Practices Act (21 V.S.A. §495 *et seq.*)**

The act prohibits employers from discriminating against individuals on the basis of race, color, religion, national origin, ancestry, sex, sexual orientation, gender identity, place of birth, age (specifically, individuals 18 years of age and older), disability, or having a positive test result from an HIV-related blood test. Section 495h requires employers to ensure a workplace free of sexual harassment. (The State Employees Labor Relations Act, 3 V.S.A. §§961 and 963, and the Judiciary Employees Labor Relations Act, 3 V.S.A. §§1026 and 1028, also make discrimination for any of these reasons an unfair labor practice, and ban unions from engaging in discrimination of this kind).

Employment of People with Disabilities (21 V.S.A. § 497)

The Employment of People with Disabilities Act promotes employment of people with disabilities through cooperation by public and private organizations. It establishes a committee appointed by the Governor for this purpose.

Parental and Family Leave Act (21 V.S.A. §§470-- 474)

The act entitles eligible employees to up to 12 weeks of leave during a 12-month period for serious illness of the employee or a close relative, or for the birth or adoption of a child. It provides for short-term family leave of up to four hours in any 30-day period (up to 24 hours per year) for routine medical and dental care for the employee or close relatives, or for activities related to the academic advancement of the employee's children.

Employment Opportunities for Veterans

While veterans do not constitute a historically disadvantaged group for equal employment opportunities consideration, Vermont law recognizes veterans face unique employment issues. The

state will make good-faith efforts to remain in compliance with laws and policies pertaining to veterans' rights and preferences.

State laws and policies pertaining to employment of veterans include:

- 3 V.S.A. §310 (f) and 20 V.S.A. §1543 – Veterans' Preference.
- 21 V.S.A. §§ 491-493 – Leave for Reserve Training.
- 20 V.S.A. §1544—State Pay for Military Service.
- Policy No. 4.3 – Veterans' Preference.

ADMINISTRATION AGENCY POLICIES

Equal Employment Opportunity/Affirmative Action

The policy prohibits discrimination in all state employment practices. It requires each agency to have an Equal Employment Opportunity Officer.

Sexual Harassment

The policy defines and prohibits sexual harassment and details a procedure for making and processing complaints of such discrimination. Managers are responsible for ensuring that employees are provided with gender-relations training.

Reasonable Accommodation

The policy sets forth how the state responds to requests by state employees for reasonable accommodations of disabilities that may affect an employee's ability to perform the essential functions of a job.

Discrimination Complaints

The policy details the state's responsibility to respond to any complaint of illegal discrimination. Every manager must provide a discrimination-free workplace. A copy of the policy must be posted in the workplace, and it must be given to all new employees. Additional information can be found in Appendix C.

COLLECTIVE BARGAINING AGREEMENTS

Affirmative action provisions and discrimination prohibitions appear in Article 5 of the state's collective bargaining agreements with the VSEA and VTA.

- Section 1 prohibits workplace discrimination, intimidation, harassment and retaliation on the basis of specified factors.
- Section 2 spells out the parties' commitment to affirmative action programs and gives the VSEA/VTA a role in developing them.
- Section 3 clarifies the responsibility of the state and the union in enforcing the contract provisions.

Additional information can be found in Appendix D.

STATE'S EQUAL EMPLOYMENT OPPORTUNITY PLAN UPDATING AND DISTRIBUTION

The Equal Employment Opportunity Plan is to be updated annually, under the oversight of the Governor's Workforce Equity and Diversity Council, through the Department of Human Resources, and agency/department Equal Employment Opportunity officers. The Equal Employment Opportunity Plan is reviewed by the Commissioner of Human Resources and approved by the Governor.

EEO officers will provide the plan to employees upon request. It can be obtained from the state and through the Department of Human Resources' web page (<http://www.humanresources.vermont.gov>). The link is made from the state home page (<http://www.vermont.gov/>) by opening —Human Resources (Dept. of) under —Executive Department Agencies, Departments, etc.

INDIVIDUAL AGENCY/DEPARTMENT PLANS

These government units are required by federal law to have individual EEO plans:

- Agency of Administration
- Agency of Agriculture
- Agency of Commerce & Community Development
- Agency of Human Services
- Agency of Natural Resources
- Agency of Transportation
- Department of Banking, Insurance, Securities & Health Care Administration
- Department of Labor
- Department of Education
- Department of Liquor Control
- Department of the Military
- Department of Public Safety
- Department of State's Attorneys & Sheriffs
- Office of the Attorney General
- Office of the Defender General
- Vermont Veteran's Home

Guidelines and assistance for developing or updating agency-specific plans will be provided by the Department of Human Resources. An agency-department plan outline is attached as Appendix E. Copies of individual plans can be obtained from the specific agency or department.

PLAN RESPONSIBILITIES

Department of Human Resources

- Submits an annual report on the program to the Governor by January 15. Annually provides the Governor with the updated plan to approve by April 30.
- Implement and monitor the state government program for equal employment opportunities and works with agencies and departments to develop their plans.
- Maintain employee statistics on race, sex, national origin, disability status, and age by EEO-4 job category, pay grade and step to the extent that accurate information is available.
- Monitor and report annually to the Secretary of Administration regarding grievance proceedings from Step III, keeping a confidential, aggregate record of grievances that allege discrimination, including the nature of the grievances, and the resolution of the grievances.
- Train and monitor departments and agencies granted authority for decentralized recruitment.
- Ensure reasonable accommodations in the Workforce Planning & Development Group for all job applicants. Examples include American Sign Language interpretation, readers, accessible facilities, TTY (text telephone device) or relay service, and large print materials.
- Through the state Workforce Equity & Diversity Coordinator provide technical assistance to the Governor's Workforce Equity and Diversity Council, and to agencies, departments and other units of government in development of individual affirmative action plans.
- Consult with and advise the Commissioner of Human Resources and the Secretary of Administration with regard to the development, implementation, and maintenance of the state's Equal Employment Opportunity Program.
- Meet on a regular basis to ensure ongoing coordination of efforts, monitoring of activities against goals and objectives, and compliance with federal and state mandates and the state/VSEA and the state/VTa contracts.

Department of Labor

- Provide data and interpretation to the Commissioner of Human Resources regarding Vermont's civilian labor force and applicant pools.

Secretaries, Commissioners and Directors

- Ensure compliance with the state equal employment opportunity plan and their agency/department equal employment opportunity programs.
- Ensure there are no barriers to equal employment opportunities.

- Ensure employee attendance at training programs to support equal employment opportunity goals and objectives.

- Ensure staff are adequately trained and assigned responsibility for the policies, procedures and activities related to their agency/department equal employment opportunity programs.

Guidelines and assistance for developing or updating agency-specific plans are provided by the Department of Human Resources. An agency-department plan outline is attached as Appendix E. Copies of the plans can be obtained from the specific department or agency.

GLOSSARY

Affirmative Action – A commitment to identify and remove obstacles to employment and career advancement opportunities afforded to employees and applicants for employment. Affirmative Action applies to all areas of employment, including, but not limited to recruitment, hiring, retention, accommodations, training, promotion, working conditions, compensation, benefits, transfer, demotion, reduction-in-force, and discharge.

Appointing Authority – The person authorized by statute, or lawfully-delegated authority, to appoint and dismiss employees.

Disability – A disability is a physical or mental impairment that substantially limits one or more major life activities.

Discrimination – Unequal treatment of a class of persons or of an individual based on his or her protected class status. Discrimination may involve a single act or it may involve a continuing policy or practice. Discrimination may be intentional or unintentional.

Diversity – The variations among individuals that make a group non-homogeneous. Variations exist according to race, ethnicity, sex, sexual orientation, gender identity, age, disability, religion, place of birth, national origin, and other factors.

Diversity training— A process whereby individuals gain insight into 1) their personal diversifying characteristics; 2) the diverse make-up of their work environment; 3) strategies for attaining and retaining a diverse workforce, with a view toward maximum utilization of individual talents, skills and perspectives for optimal productivity.

Equal Employment Opportunity – Access to all available employment opportunities, under equal terms and conditions, with equal benefits and services without actions, policies, or practices that differentiate among applicants or employees on the basis of race, color, national origin, place of birth, sex, age, sexual orientation, gender identity, disability, religion, or HIV status. Equal employment opportunity includes equality in recruitment, hiring, retention, accommodations, training, promotion, working conditions, compensation, benefits, transfer, demotion, reduction-in-force, discharge, and all terms and conditions of employment.

Essential Functions – Fundamental job duties; not marginal functions.

Individuals with Disabilities – Persons who have one or more physical or mental impairments that substantially limit one or more major life activities, or those who have histories of such impairments, or are regarded as having such impairments.

Minority – A member of an identifiable, disadvantaged group making up less than a majority of the population. Most commonly, this term is used to refer to groups that are of a different race or national origin than the majority of the population.

Protected Class— A group of people protected under federal and/or state fair employment practices law. In Vermont, state and/or federal laws protect people from employment discrimination on the basis of age, color, disability status, sex, national origin, pregnancy, race, religion, protected activity (for which retaliation is illegal), ancestry, HIV status, place of birth, gender identity, and sexual

orientation. State and/or federal laws also provide for preferences in employment based on military veterans' status.

Reasonable Accommodation – Any change or adjustment to a work environment that enables a qualified applicant or employee with a disability to apply for a job, to perform its essential functions, or to enjoy the benefits and privileges of employment equal to those enjoyed by employees without disabilities.

Relevant Labor Market - The geographical area from which an employer recruits its employees. (For this plan, the relevant labor market is Vermont.)

Representative Parity – When an employer utilizes racial or ethnic minorities or women at a reasonable rate, based on their availability in the relevant labor market.

Step III Grievance—An expression of dissatisfaction with aspects of employment or working conditions under a collective bargaining agreement, or a complaint alleging discriminatory application of a rule or regulation. At this stage of the grievance procedure, an employee, a group of employees, or the employee's collective bargaining representative presents a written complaint to the Department of Human Resources.

APPENDIX A

STATE OF VERMONT

Executive Department

EXECUTIVE ORDER

WHEREAS, the State of Vermont is an equal opportunity employer and is committed to the concept of affirmative action in the practice of equal opportunity in all aspects of employment in state government; and

WHEREAS, affirmative action is a continuing commitment by the state to identify any obstacles to the employment and career advancement afforded employees of the state and to work to remove those obstacles without regard to race, color, religion, national origin, sex, sexual orientation, ancestry, place of birth, age, physical or mental disability or condition or HIV status.

WHEREAS, the Department of Personnel is developing a formal statewide Workforce Planning process that will capitalize on the benefits of diversity and promote a talented and skilled workforce.

NOW THEREFORE, BE IT RESOLVED THAT I, Howard Dean, by virtue of the power vested in me as Governor, do hereby:

1. Appoint the Commissioner of Personnel or the Commissioner's designee as the Workforce Equity and Diversity Officer of the State of Vermont to:
 - a. With the approval of the Secretary of Administration, develop, implement, and monitor an affirmative action program for the State of Vermont which shall address itself to statewide issues and provide support to each agency/department of state government to ensure the independent development and implementation of agency-specific/department-specific programs tailored to its needs; and
 - b. Work with agencies and departments in the preparation, monitoring, and enforcement of agency-specific/department-specific affirmative action plans;
 - c. Work with personnel officers, field equity and diversity officers, and ADA coordinators to ensure the availability of appropriate training and support for all agencies and departments; and
 - d. Ensure that affirmative action and diversity is an integral part of workforce planning and development throughout the executive branch.
2. Create a Governor's Workforce Equity and Diversity Council, which shall:
 - a. Consist of not more than fifteen (15) members to include one representative from each of the following:

Department of Personnel
Vermont State Employees Association
Attorney General's Office

Governor's Commission on the Status of Women
Department of Aging and Disabilities

These members of the council shall be appointed by their respective agencies. The remainder of the Council shall consist of three (3) at-large state government executive branch employees, and seven (7) public members who belong to historically disadvantaged groups or who work for organizations that advocate for such groups, and shall be appointed by the Governor. Each year the Council shall elect two members to serve as chair and vice-chair or as co-chairs of the Council.

- b. The term of office for Council members shall be two (2) years, with members serving at the pleasure of the Governor. The Council shall be attached to the Department of Personnel for the purpose of obtaining assistance with scheduling, taking minutes, maintaining files, and similar administrative support. Council members shall receive reimbursement for mileage and necessary expenses, including meals and reasonable accommodations.
 - c. The Council shall consult with and advise the Commissioner of Personnel and the Secretary of Administration with regard to the development, implementation, and maintenance of the state's Affirmative Action Program and report on the integration of diversity issues with statewide planning and development efforts.
 - d. The Council shall meet on a regular basis to ensure ongoing coordination of efforts, monitoring of activities against goals and objectives, and compliance with applicable federal and state mandates and the state/VSEA contract.
 - e. The Council may establish ad hoc subcommittees and appoint advisors as needed to address specific issues that may arise.
3. Require the Commissioner of Personnel, with the assistance of the State Governor's Workforce Equity and Diversity Council:
- a. To submit an annual report to the Governor as to the progress of the current year's affirmative action plan on January 15; and
 - b. To submit the state's affirmative action plan for the next fiscal year by April 30th for approval by the Governor.

This Executive Order supercedes Executive Order #14-98.

This Executive Order shall take effect upon signing.

Witness my name hereunto subscribed and the
Great Seal of the State of Vermont hereunto affixed
at Montpelier, this day of , 2002, C.E.

Howard Dean, M.D.
Governor

APPENDIX B

Governor's Workforce Equity & Diversity Council Member Roster 2012

Janet Bullard

VT Commission on Women
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APPENDIX C

ADMINISTRATION AGENCY POLICIES

These policies apply to executive-branch classified, exempt and temporary state employees and to job applicants.

Policy 3.0: Equal Employment Opportunity/Affirmative Action

The policy prohibits discrimination in all employment practices, including recruitment, hiring, promotion, demotion, transfer, layoff, termination, rates of pay and other forms of compensation, selection for training, agency sponsored social and recreational events, and all other terms, privileges, and conditions of employment. The policy requires each agency to appoint an EEO Officer.

Policy 3.1: Sexual Harassment

This policy defines and prohibits sexual harassment and sets procedures for making and processing complaints. Managers are responsible for ensuring that employees are provided with gender-relations training.

Policy 3.2: Reasonable Accommodation

This policy outlines how the state responds to requests for reasonable accommodations for state employees.

Policy 3.3: Discrimination Complaints

This policy states that the state opposes discrimination on the basis of race, color, religion, creed, ancestry, sex, marital status, age, national origin, disability, sexual orientation, membership or non-membership in the VSEA and any other factor prohibited by law. The state is bound to respond to any discrimination complaint against employees with established protocols for reporting, investigating and resolving allegations. The policy holds managers responsible for providing a discrimination-free workplace. A copy of the Discrimination Policy must be posted in the workplace. All new employees must receive a copy of this policy.

APPENDIX D

STATE COLLECTIVE BARGAINING AGREEMENTS

The state's labor contracts with the Vermont State Employees Association (VSEA) recognize these bargaining units for the Executive Branch:

- Non-Management,
- Supervisory, and
- Corrections.

The state's labor contract with the Vermont Troopers' Association (VTA) recognizes this bargaining unit for the Executive Branch:

- State Police.

The labor contracts cover all executive branch employees except exempt, managerial, confidential, temporary, or contractual workers. The VSEA or VTA serves as the exclusive bargaining agent for unit employees, regardless of whether they are union members.

ARTICLE 5, NO DISCRIMINATION, OR HARASSMENT; and AFFIRMATIVE ACTION of the VSEA/State of Vermont Collective Bargaining Agreements and VTA/State of Vermont Collective Bargaining Agreement states:

Section 1...In order to achieve work relationships among employees, supervisors and managers at every level which are free of any form of discrimination, neither party shall discriminate against, intimidate, nor harass any employee because of race, color, religion, creed, ancestry, sex, marital status, age, national origin, disability, sexual orientation, membership or non-membership in the VSEA/VTA, filing a complaint or grievance, or any other factor for which discrimination is prohibited by law...

Section 2...It shall be a goal and an objective of the state to develop and implement positive and aggressive affirmative action programs to redress the effects of any discrimination and to prevent future discrimination in personnel actions which affect bargaining unit personnel. The VSEA/VTA shall furnish input in the development of such programs.

Section 3... Corrections and State Police Bargaining Units

(a) By the Employer – The state acknowledges its duty to practice good-faith implementation of the goals contained in this article. The employer further acknowledges its duty to inform employees of their obligation not to discriminate, to intimidate or harass employees under applicable law, policy or this Agreement, and of their obligation to adhere to any affirmative action plan or program that may be developed under applicable law or this Agreement. The employer will notify employees, managers or supervisors at every level that any person who by action or condonation subjects another employee to harassment in the form of uninvited physical or verbal attention, insults or jokes based upon a factor for which discrimination is prohibited by law, or who invites or provokes such conduct, shall be subject to appropriate discipline.

Non-management and Supervisory Bargaining Units

(a) The state will notify all state employees that any person who by action or condonation, subjects any other employee to harassment in the form of uninvited physical or verbal attention, insults or jokes based upon a factor for which discrimination is prohibited by law, or upon a person's sexual orientation, or who invites or provokes such conduct, shall be subject to appropriate disciplinary action.

(b) By the VSEA – (1) The VSEA acknowledges its obligation to inform its members, officers, and agents of their obligations to abide by the Laws, regulations and policies which prohibit discrimination, intimidation, or harassment.

(2) The VSEA further acknowledges its obligation to train its officers, agents and stewards to be sensitive to the requirements of this Article.

APPENDIX E

Agency/Department Equal Employment Opportunity Plan Model

Cover Page

- A. Agency/department name and address
- B. Fiscal year of plan
- C. Name, title, and signature of the agency head

Table of Contents

Introduction

Outline the agency mission in undertaking the equal employment opportunity plan.

Organization and Structure

A brief narrative, with an organizational chart included.

Equal Employment Opportunity Responsibilities

This section should dovetail with the duties outlined in the section on agency/department plans.

Policy Statements

Insert the policies in an Appendix of this plan.

Complaint Procedure

List the places where applicants and employees can report complaints of unlawful discrimination, stating contact information. Refer to grievance procedures in collective bargaining agreements and to these Department personnel policies:

- No. 3.1: Sexual Harassment,
- No. 3.2: Reasonable Accommodation,
- No. 3.3: Discrimination Complaints,
- No.10.0: Grievance Procedure, and
- No. 10.2: Americans with Disabilities Act Grievance Procedure.

Agency/Department Plan Distribution

The plan must specify how and where people can acquire a copy. The EEO officer makes copies available.

Data Analysis

The Department of Human Resources with assistance from the Department of Labor will provide data to agencies and departments for their specific analysis.

Goal Setting

Based on data analysis, hiring and promotion goals aim to achieve diversity and representative parity in the relevant labor markets for protected class members in the workforce. Goals are designated long-term (more than a year to attain) or short-term (during the plan year). Timetables should be based on reasonable expectations from good-faith effort to make equal employment opportunity work.